

Special and Regular Meeting of Tuesday, July 8, 2008

City Council Chambers, One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation: One case - Claim of Schoening et al.: Marburger Road
- B. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: MMCEA and AFSCME

Attended by Councilmembers Dickenson, Feierbach, Wozniak, Braunstein, Lieberman, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Police Chief Mattei, Interim Human Resources Director Kirby, Labor Negotiator Kelly Tuffo, Public Works Director Davis. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri

Cook
City Clerk

This meeting was not tape recorded or videotaped.

REGULAR MEETING
CALL TO ORDER 7:35 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Wozniak, Braunstein, Dickenson, Lieberman

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil, Public Works Director Davis, Police Chief Mattei, Associate Planner Walker, City Engineer Borrmann, City Treasurer Violet, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by City Clerk Cook.

REPORT FROM CLOSED SESSION

No action.

SPECIAL PRESENTATIONS

Proclamation Honoring Jack Langley, Belmont Resident, for Wildlife Rescue

Mayor Lieberman presented a proclamation to Mr. Langley to acknowledge his rescue of quail hatchlings that had fallen through a storm grate.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Mary Ridge, Belmont resident, stated that the motorcycle issue she previously reported to Council has largely subsided. She described a letter she recently received from the Police Chief. She commented that she continues to be harassed by young people from her neighborhood.

Mayor Lieberman noted that staff would follow up with Mrs. Ridge to address the issue of harassment.

Judy King, Belmont Park Boosters, outlined the remaining summer concerts on Sundays through the end of July.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Feierbach stated she attended a meeting in the San Mateo Highlands where the potential for a nearby men's jail site was discussed. She noted that two members of the San Mateo County Board of Supervisors were in attendance, who pledged to the crowd of 160 that the site was being eliminated for consideration.

Mayor Lieberman noted that although there was an item on this evening's Redevelopment Agency Agenda regarding the Emmett House, he requested a verbal update on this project.

Public Works Davis reported that structural issues were discovered with the Emmett House, but had been addressed. The contractor will begin work the following week.

AGENDA AMENDMENTS

Mayor Lieberman noted that because of the number and variety of issues on both the Council's Agenda and the Redevelopment Agency Agenda, he would be taking a number of items out of order this evening.

He announced that at the request of Councilmember Dickenson, Agenda Item 9's will be considered following the first Public Hearing on tonight's agenda.

City Clerk Cook stated that members of the public requested the removal of Consent Calendar Item 4-I (Resolution Authorizing Request for Proposals for Solid Waste Collection Services) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of June 10, 2008 and Special Meeting of June 20, 2008 (Closed Session)

Acceptance of Written Communication: Received June 23, 2008, PUC Notification of Applications by PG&E to Recover increased Procurement Costs

Acceptance of South Bayside Waste Management Authority (SBWMA) Shoreway Environmental Center Update

Motion to Set a Public Hearing Date on August 12, 2008 to Act on the Proposed Vacation of Portion of a 20' Alley known as Civic Lane which lies adjacent to 1300 El Camino Real (APN 045-240-010)

Approval of Ordinance 1038 Approving Conceptual Development Plan, Rezoning, and Tentative Subdivision Map for 1300 El Camino Real (second reading and adoption)

Approval of Resolution 10032 Approving the Filing of the Federal Safe Routes to School (SRTS) Grant Application in the Amount of \$1,000,000 for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract Number 433

Approval of Resolution 10033 Approving the Information Services Director and Technology Specialist I Job Classifications and Salary Ranges in the Information Services Department.

Approval of Resolution 10034 Opposing the Proposed Spray Program by the California Department of Food and Agriculture and the United States Department of Agriculture to Eradicate the Light Brown Apple Moth

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Authorizing Request for Proposals for Solid Waste Collection Services

Kristin Mercer, Belmont resident, expressed concerns regarding the use of single-stream recycling collection due to environmental issues. She noted that although the South Bayside Waste Management Authority would continue to use single-stream for sorting purposes, Belmont could still opt for dual-stream collection. Her opinion differs with others that single stream would result in a higher level of recycling. She contends that recycling could occur with more manageable containers with a lid, and weekly pickups. She clarified that the dual-stream system is still fully automated. Single-stream results in lower quality recyclables, and it requires more sorting at the facility.

Sam Horowitz, Belmont resident, also expressed concerns regarding single-stream collection, due to the fact that it allows more contamination of recycling material. He urged Council not to take the easy approach. He described the Shoreway facility requirements, and recommended utilizing best practices for dual-stream collections.

George Kranen, Belmont resident, expressed his support for dual-stream collection and the need for a bin with a lid.

Frank Egger, Fairfax resident (and former Councilmember thereof), stated that his city changed from a single to a dual-stream due to contamination issues. He noted that this resulted in an increased level of recycling.

Public Works Director Davis responded that single-stream containers will be on wheels with lids, and will be collected weekly. He noted that the Shoreway facility will continue on a single-stream process through the year 2019. He further commented that the older equipment is not as good as the newer technology available for single-stream, since contamination rates are now much lower with the newer single-stream process. Recyclables is a commodity, and SBWMA does not want to ship out a contaminated product, and contamination levels would remain at

below 3 percent. Should Belmont choose to utilize dual-stream, the product would be dumped into the single-stream facility and re-sorted. It would be expensive to send the recyclables to another facility.

Councilmember Feierbach stated that Allied Waste needs to address the issue of recyclable materials being stolen at curbside.

In response to Councilmember Wozniak's question regarding free service to the Belmont-Redwood Shores School District, Public Works Director Davis stated that this provision will be removed from the final RFP document. In response to Councilmember Braunstein, he clarified that a 60-gallon container size is used in the staff report for comparison purposes, but smaller can size is available, down to 20 gallons.

Public Works Director Davis noted that the Shoreway facility is available for tours.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, Resolution 10035 Authorizing Request for Proposals for Solid Waste Collection Services was unanimously approved by a show of hands.

HEARINGS

Public Hearing - Appeal of Planning Commission Decision to Deny a Tentative Parcel Map and Single Family Design Review at 1109 Alomar Way

Associate Planner Walker provided a background of the subdivision project, which began in 2006. She noted that this property was one of two parcels which were exempted from the slope density ordinance that was enacted in 2005. She stated that the applicant is requesting to subdivide the parcel into two lots and to build a new single-family home on the newly-formed lot. She clarified that the new lot is steep and would require grading and tree removal in order to develop. The Planning Commission was unable to make five of the seven required findings to grant the subdivision request, and unanimously denied the application.

Associate Planner Walker noted that in its argument in favor of the request for the subdivision, the appellant contends that staff was not cooperative. She advised that alternates to a subdivision were proposed to the applicant, some of which do not require Planning Commission approval. Comparison projects used by the applicant/appellant are not applicable to the request for subdivision. It is staff's opinion that the site is physically unsuitable for development.

Mayor Lieberman opened the Public Hearing.

Nancy Chillag, on behalf of Applicant/Appellant, stated that her clients were misled to believe that the project could be approved. None of the alternatives suggested by staff will serve their needs. Slope was never addressed with her clients prior to their spending money on architects, plans and engineers, and was only brought up a week ago. Other similar projects have been built or are under construction in Belmont. Her clients were never told that there is a different set of standards for subdivisions. Grandfathering their property following passage of the slope density ordinance led the owners to believe that the project had a chance for approval. The applicant obtained 48 signatures of support for the project, but staff has indicated that this petition cannot

be used as a basis of approval. She questioned the validity of using a petition as a basis of denial if one cannot also use it as a basis for approval. She noted that the removal of unprotected trees was also an important consideration in denying the project. She described a situation in a previous case of hers wherein the destruction of an unprotected tree belonging to her client was not considered as a basis for denying that application.

Ms. Chillag stated that slope density was heavily weighted by staff and the Planning Commission in denying the project, even though the ordinance had not yet been enacted. It should not be a factor in this project. She noted that this project could be approved even if slope density is applied. She requested that the City Council overturn the Planning Commission's decision to deny the project.

Haven Dubrul, Belmont resident, stated she is not in favor of the project. She commented that property owners have a responsibility to protect open space, and subdividing the property would change the character of the neighborhood in that none of the properties have steep slopes. She commented that many neighbors spoke against this project at the Planning Commission meeting.

Carmen Doestie, Belmont resident, stated that if the second home is being built for the applicant's in-laws, they should have been brought here long before so much time had elapsed. The only neighbor who supports this project does not maintain his own property, and does not directly face the proposed project site.

Bill Hand, Belmont resident, stated he is against the project. He spoke with several neighbors, and all but one are opposed to the project. He expressed concerns regarding runoff and the loss of trees. He has had to install a new drainage system, as his pump is no longer effective. He supports upholding the Planning Commission decision.

Mayor Lieberman noted that in the absence of any additional speakers, the applicant was invited to provide rebuttal testimony at this time.

Nancy Gillig, on behalf of Applicant/Appellant, stated that what is proposed is a 1400 square-foot home on a 6,000 square foot lot. Grading, drainage and engineering issues will be addressed during the final design of the new home.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the Public Hearing was unanimously closed by a show of hands.

In response to Councilmember Wozniak's questions regarding densities of the divided lots, Community Development Director de Melo stated that the calculations in the staff report were provided for illustration only, and were not a sole factor in making the determination to deny the request. General Plan policies were the primary consideration, and the arguments of those policies were stronger than the issue of density. He further clarified that there is no pattern of range of density for this neighborhood. He described various surrounding properties, and noted that all lots are larger than the proposed new lot, as the smallest existing lot is 7100 square feet.

Community Development Director de Melo further clarified that slope density was not a factor in the decision to deny this project. Findings for subdivisions were in place prior to the passage of the slope density ordinance, and the project was subject to subdivision standards. Numerous meetings were held with the applicant over many months, during which time the applicants changed architects. The applicants were constantly reminded of the rigorous standards required to be met for approval of a subdivision. He noted that none of the alternatives available to the applicant involved subdividing the property, and all alternatives were discussed with the applicant. Staff expressed profound concerns regarding the project during the discussion phase with the applicants.

In response to Councilmember Feierbach's questions regarding the Subdivision Map Act and the need for environmental review, City Attorney Zafferano clarified that this project was determined on the basis of Belmont's subdivision ordinance. He noted that no environmental review was made because the project was denied. If overturned, the project would be subject to this review.

Councilmember Feierbach stated she attended the Planning Commission hearing on this matter. She noted that if approved, this would be the first lot to be subdivided from the original development of the neighborhood. She noted that subdivisions are held to a different standard than other development rights.

Councilmember Wozniak stated that she also attended the Planning Commission hearing. She noted that staff never knows the outcome of the Commission's decision. She stated there is a conformity issue regarding this project. Some houses are built on steep slopes, but are usually sited on the flat part of the parcel. No other parcels in this development have been subdivided in the past. She respects the unanimous decision of the Planning Commission on this matter, and would vote to uphold its decision.

Mayor Lieberman stated he visited the site. He would prefer not to subdivide the property but sees no legal reason to deny the request. This is not an open space issue. Most developments have some inconsistencies with existing policies.

Councilmember Wozniak responded that this is an issue regarding the General Plan policies.

Community Development Director de Melo stated that although not all developments are 100 percent consistent with the General Plan, there are significant policies regarding this project.

City Attorney Zafferano noted that the slope of this project would exceed that of any other subdivision in Belmont. If there is a decision to uphold the Planning Commission decision, he recommends refining the resolution to include verbiage to address all of the pertinent policies.

Councilmember Dickenson noted that the applicant/appellant did not argue against the Planning Commission's decision, but solely regarding staff issues. There is no legal basis for staff to advise applicants. He supports the Planning Commission decision.

Councilmember Braunstein stated that he has struggled with this issue, and discussed the project with staff. He supports neighbor concerns and enjoys open space, but concurs with the Mayor regarding the legal basis of denial. He added that it is a stretch of the findings to deny.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, and approved by a show of hands (3-2, Lieberman, Braunstein no) to uphold the Planning Commission's Decision to Deny a Tentative Parcel Map and Single Family Design Review at 1109 Alomar Way.

City Attorney Zafferano stated that a more refined resolution would be brought back at the next meeting for approval.

RECESS: 9:00 P.M.

RECONVENE: 9:10 P.M.

MATTERS OF COUNCIL INTEREST/CLARIFICATION (items taken out of order)

Discussion regarding addition of a trauma center to the Palo Alto Medical Foundation (PAMF) building (Dickenson)

Councilmember Dickenson expressed his desire to have a trauma center included in the plans for the new Palo Alto Medical Foundation (PAMF) facility to be located in San Carlos. Stanford Medical Center and San Francisco General are the closest trauma centers. He described last year's incident at Ralston Middle School wherein victims had to be transported to a trauma center in the East Bay because Stanford and San Francisco were full, and all available ambulances in San Mateo County were used during that one incident. The new PAMF would be a good location because of its proximity to Highway 101 and the San Carlos Airport. He noted that this is on the next Belmont-San Carlos Fire Board agenda for discussion.

Councilmember Feierbach expressed her concern that the PAMF was already designed, but she was also concerned regarding the Ralston School event. She is concerned regarding the impact that a trauma center might have on the surrounding community, and that Belmont does not have the ability to dictate another city's project. She expressed support for ongoing dialog on this issue.

Council concurred to pursue dialog regarding the establishment of a trauma center at the new Palo Alto Medical Facility in San Carlos.

Discussion of 10,000 solar roofs and consideration of Belmont becoming a Municipal Electric Utility District (Dickenson)

Councilmember Dickenson stated that the City continues to pursue the use of photovoltaic panels on city structures. Under the current law, municipalities are unable to use energy credits produced as a result. No progress has been made through the County-wide ad hoc groups that have been discussing this issue. It is his desire to seek options, including the formation of Belmont's own utility district. He noted that the City of Palo Alto runs its own municipal utility district (MUD).

City Manager Crist stated that this is likely to be a large issue and he would not be in a position to be able to provide much detail, should the Council desire to pursue this matter. He noted that staff continues to explore the City of Berkeley's model for financing private solar projects.

Councilmember Feierbach stated should there be a desire to pursue this, Council would need a cost analysis, details of the status of upcoming solar projects, the status of existing and pending legislation, and information from PG&E regarding their position on this issue.

Councilmember Wozniak noted that Palo Alto's MUD has been in existence for 100 years. She expressed concern regarding the potential cost. She expressed support for high-level research.

David Rubin, PG&E, stated that PG&E is the leading solar utility in the West. He described some of the initiatives that are in place, such as Cal Solar, and net metering. PG&E can also purchase power elsewhere and distribute it to customers. He stated that PG&E supported the legislation that resulted in the City of Davis' model. He noted that a MUD is not necessary to achieve energy goals, and it is expensive. He commented that PG&E's infrastructure is not for sale. PG&E has taken a neutral position on Assembly Bill 2466, and they are working with the author to refine the language.

Council concurred to have a future staff report regarding this matter.

RECESS: 9:33 P.M. (to consider the Redevelopment Agency Agenda)
RECONVENE: 10:00 P.M.

PUBLIC HEARINGS (continued)

Public Hearing to Consider Adoption of a Resolution Accepting the Report of Sewer Service Charges for Fiscal Year 2008-2009, and Directing the Filing of Charges for Collection by the County Auditor

Finance Director Fil stated that this is a procedural requirement to forward sewer charges to the County Assessor's Office in order to place the charge on the tax roll.

Mayor Lieberman opened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Public Hearing was unanimously closed by a show of hands.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, Resolution 10036 Accepting the Report of Sewer Service Charges for Fiscal Year 2008-2009, and Directing the Filing of Charges for Collection by the County Auditor was unanimously approved by a show of hands.

OLD BUSINESS (items taken out of order)

Informational Presentation by South Bayside System Authority (SBSA) and City of Belmont Staff Regarding: A) Capital Improvement Program (CIP) Summary and Proposed Bond Debt Service Estimates for SBSA 10-year CIP; B) Draft Bond Sale

Schedule; C) Information Regarding Draft Financing Agreement between SBSA and the City of Belmont; and D) Draft 45-Day Public Notice, Tentatively Dated July 22, 2008, for Setting a Proposition 218 Public Hearing for No Earlier and 45 Days After Mailing of Public Notices on Proposed Rates

Finance Director Fil provided a brief overview of the proposed capital project at South Bayside System Authority's (SBSA) sewage treatment plant. Staff proposes a dedicated separate tax to cover Belmont's share of the cost of this project, and noted that this needs to follow Proposition 218 procedures in order to enact the tax.

Dan Childs, SBSA General Manager, provided the background of the formation of SBSA, including the breakdown of ownership by each of the four entities. He reviewed the condition of the facilities and noted that maintenance has been deferred for many years. The rehabilitation of the pump stations are the highest priority.

In response to Councilmember Feierbach, Mr. Childs clarified that a Request for Proposal (RFP) was issued to create a large pool of vendors for many projects, as the need is too great for only one contractor.

MEETING EXTENSION at this time, being 10:25 p.m., on a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the meeting was unanimously extended by 30 minutes.

Alex Handler, Bartle Wells Associates, stated that Belmont's share of the cost of rehabilitation is \$45 million. He reviewed Belmont's debt service plan for funding. He clarified that SBSA could handle the bond sale for all member cities, which could include funding flexibility, or each could seek their own funding. He reviewed the draft schedule for the Proposition 218 procedure in order to fund Belmont's share of the project cost.

In response to Mayor Lieberman, Finance Director Fil clarified that there are other funding options besides SBSA handling the issuance of debt, or Belmont issuing its own debt. The proposed schedule for having the Proposition 218 process in place by the next Council meeting is ambitious, as the Infrastructure Committee and the Finance Commission should review the proposal. He noted that this would be the largest debt ever issued in the City of Belmont.

Mayor Lieberman recommended that everyone take a tour of the SBSA facility in order to fully comprehend the need for rehabilitation.

In response to Councilmember Feierbach, City Attorney Zafferano clarified that the joint powers agreement requires that all member cities are required to cover the necessary costs incurred by SBSA for operations and capital.

Council concurred to implement a Proposition 218 hearing process to fund Belmont's share of the cost of the capital project to rehabilitate the SBSA facility, and to have the Infrastructure Committee and the Finance Commission review the proposal.

Resolution Approving Establishment of Samtrans Bus Stops on Hiller Street and Authorizing a 50-Foot No Parking Zone in the Northbound Direction and a 5-Foot No Parking Zone in the Southbound Direction between 6:30AM and 6:30PM Monday through Friday

Mayor Lieberman summarized the Infrastructure Committee's review of this request and outlined the changes that were recommended for the location of the bus stops.

In response to Councilmember Wozniak, Public Works Director Davis clarified that it is not common to locate a bus stop in front of driveways, but it can be done.

Councilmember Wozniak stated that the Green Advisory Committee recommended against the relocation of the bus stops. She noted that major changes were suggested to accommodate one person, and that Redi-Wheels was an option for that person.

Mayor Lieberman stated that there were other issues that were addressed with regard to this request that were beyond the scope of the Green Advisory Committee. Changes in the location of the bus stops were appropriate, regardless of the request.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, Resolution 10037 was approved by a show of hands (4-1, Wozniak no).

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Braunstein noted that he will be attending an upcoming Notre Dame de Namur Advisory Committee meeting.

Verbal report from City Manager

City Manager Crist announced the hiring of two new department heads in Human Resources and Parks and Recreation.

ADJOURNMENT at this time, being 10:50 P.M.

Terri

**Cook
City Clerk**

Council Meeting Tape Recorded and Videotaped
Audio Recording 702